

**PATENT**

Attorney's Docket No: 11034US02 / 100-248.P1

Applicant or Patentee: Beamer, et al.

Serial or Patent No:

Filed or Issued:

For: BACTERICIDAL/PERMEABILITY-INCREASINGPROTEIN: CRYSTALLIZATION, X-RAY DIFFRACTION, THREE-DIMENSIONAL STRUCTURE DETERMINATION, RATIONAL DRUG DESIGN AND MOLECULAR MODELING OF RELATED PROTEINS

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) and 1.27(c)) -- SMALL BUSINESS CONCERN**

I hereby declare that I am

The owner of the small business concern identified below:

An official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN      XOMA Technology Ltd.

ADDRESS OF BUSINESS 2910 Seventh Street  
Berkeley, CA 94710

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to, and remain with, the small business concern identified above with regard to the invention, entitled BACTERICIDAL/PERMEABILITY-INCREASINGPROTEIN: CRYSTALLIZATION, X-RAY DIFFRACTION, THREE-DIMENSIONAL STRUCTURE DETERMINATION, RATIONAL DRUG DESIGN AND MOLECULAR MODELING OF RELATED PROTEINS by inventor(s) Beamer, Carroll and Eisenberg described in

The specification filed herewith.

Application Serial No. \_\_\_\_\_, filed \_\_\_\_\_.

Patent No. \_\_\_\_\_, issued \_\_\_\_\_.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).*

NAME: \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

INDIVIDUAL       SMALL BUSINESS CONCERN       NONPROFIT ORGANIZATION

**NAME:** \_\_\_\_\_

ADDRESS: \_\_\_\_\_

INDIVIDUAL       SMALL BUSINESS CONCERN       NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Janet M. McNicholas

**TITLE OF PERSON OTHER THAN OWNER:** Assistant Secretary

ADDRESS OF PERSON SIGNING: XOMA Technology Ltd.  
2910 Seventh Street  
Berkeley, CA 94710

SIGNATURE James M. McAllister Date: December 20, 1999

## DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

As below named inventor(s), I/we hereby declare that my/our residence(s), post office address(es) and citizenship are as stated below next to my/our name(s); I/we believe that I/we am/are the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled, "**BACTERICIDAL/PERMEABILITY-INCREASING PROTEIN: CRYSTALLIZATION, X-RAY DIFFRACTION, THREE-DIMENSIONAL STRUCTURE DETERMINATION, RATIONAL DRUG DESIGN AND MOLECULAR MODELING OF RELATED PROTEINS**" the specification of which was filed on June 22, 1998 as U.S. Application Serial No. 09/446,415 and was amended on \_\_\_\_\_ (if applicable);  was filed as PCT International Application No. PCT/US98/13007 on June 22, 1998 and was amended under Article 19 on \_\_\_\_\_ (if applicable). I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56.

I/we hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Priority Claimed

(Application Serial Number)

(Country)

(Day/Month/Year Filed)

 Yes  No

I/we hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

(Application Serial Number)

(Day/Month/Year Filed)

I/we hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

PCT/US98/13007

22 June 1998

(Application Serial Number)

(Day/Month/Year Filed)

(Status-Patented, Pending or Abandoned)

I/we hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**POWER OF ATTORNEY:** I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Janet M. McNicholas, Ph.D. (32,918) of McAndrews, Held &amp; Malloy, Ltd., 500 West Madison Street, 34th Floor, Chicago, IL 60661

Send correspondence to: Janet M. McNicholas, Ph.D.

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State or Country Missouri	State or Country Missouri
Date <input checked="" type="checkbox"/> 3/29/00	Signature <i>Lesa J. Beamer</i>

## DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

As below named inventor(s), I/we hereby declare that my/our residence(s), post office address(es) and citizenship are as stated below next to my/our name(s); I/we believe that I/we am/are the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled, "BACTERICIDAL/PERMEABILITY-INCREASING PROTEIN: CRYSTALLIZATION, X-RAY DIFFRACTION, THREE-DIMENSIONAL STRUCTURE DETERMINATION, RATIONAL DRUG DESIGN AND MOLECULAR MODELING OF RELATED PROTEINS" the specification of which was filed on June 22, 1998 as U.S. Application Serial No. 09/446,415 and was amended on \_\_\_\_\_ (if applicable);  was filed as PCT International Application No. PCT/US98/13007 on June 22, 1998 and was amended under Article 19 on \_\_\_\_\_ (if applicable). I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56.

I/we hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

Priority Claimed

(Application Serial Number)

(Country)

(Day/Month/Year Filed)

Yes  No 

I/we hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

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(Day/Month/Year Filed)

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I/we hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

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See second page for additional inventor(s)

See reverse for relevant rules & statutes

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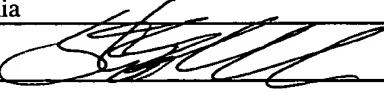
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State or Country	State or Country
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>